Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 1579 OF 2022 (FILING)
IN
COMPANY APPLICATION NO. 182 OF 2001

Agostinho L. D'Costa, Thr. His POA. Remy Fernandes	... Applicant
Versus	
Bharatiya Development Finance Limited (In Liquidation) Rep By Official Liquidator & 2 Ors.	...Respondents

Mr. Prashil Arolkar, Advocate *for the Applicant*.

Ms. Amira Razaq, Advocate *for Respondents-Official Liquidator*.

CORAM: B. P. COLABAWALLA, J
DATED: 14th FEBRUARY 2023

P.C.

1. This is an application seeking modification of the decree dated 03.05.2002 made in Company Application No. 182 of 2001. In terms of the decree, the Applicant was required to pay a sum of Rs.96,782/- (Rupees Ninety Six thousand Seven Hundred and Eighty Two only) together with future interest at the rate of 24% per annum and costs of Rs. 10,000/- (Rupees Ten Thousand only).

2. It is the case of the Applicant that in terms of the decree, the Applicant herein has paid the principal amount of Rs.96,782/- on 04.07.2022. The learned Counsel appearing on behalf of the Applicant submitted that interest awarded in the decree is punitive in

nature as it directs payment of interest at the rate of 24% per annum. On taking instructions, he stated that the Applicant is willing to pay an additional amount of Rs. 1,00,000/- (Rupees One Lakh only), and which would be paid on or before 25th April 2023. He, therefore, submitted that the decree be modified accordingly and be marked as fully satisfied on the payment of Rs.1,00,000/-(Rupees One Lakh only) on or before 25th April 2023.

3. Considering the aforesaid circumstances, the proposal mooted by the Counsel for the Applicant is accepted in the peculiar facts and circumstances of the case.

4. Accordingly, the Applicant is directed to pay a sum of Rs.1,00,000/-(Rupees One Lakh only) on or before 25th April 2023 to the Respondent/Official Liquidator. Upon payment of the aforesaid amount of Rs.1,00,000/-(Rupees One Lakh only) (on or before 25th April 2023), the decree in question will stand completely satisfied and there will be no obligation on the part of the Applicant to make any further payment towards satisfaction of the decree. If however, the Applicant fails to pay the amount of Rs.1,00,000/-(Rupees One Lakh only) on or before 25th April 2023, then, this application shall stand dismissed without further reference to the Court and the Applicant will have to pay the entire amount in terms of the decree as it stands. In other words, it is clarified that the Applicant shall have

to pay interest at the rate of 24% per annum as mentioned in the decree.

5. I am informed that Execution Proceedings are also initiated to recover the amount from the Applicant. Those Execution Proceedings shall stand stayed till 25th April 2023 and automatically come to an end on the payment of Rs.1,00,000/-(Rupees One Lakh only) on or before 25th April 2023 and the decree shall be marked as fully satisfied. As a natural corollary, if the amount of Rs.1,00,000/-(Rupees One Lakh only) is not paid by 25th April 2023, the Execution Proceedings shall continue in accordance with the law.

6. The above Company Application is disposed of in the aforesaid terms. There shall be no order as to costs.

7. This Order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

B. P. COLABAWALLA, J

ANDREZA PEREIRA Digitally signed by ANDREZA PEREIRA Date: 2023.02.15 13:00:06 +05'30'